

VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES

Thursday, February 18, 2010

Department of Health Professions

Richmond, VA

CALL TO ORDER: The meeting convened at 8:47 a.m.

MEMBERS PRESENT: Jane Piness, MD, President
Karen Ransone, MD, Vice-President
Valerie Hoffman, DC, Secretary/Treasurer
Gen. Clara Adams-Ender, RN, MSN, USA Ret.
Deeni Bassam, MD
Sandra Anderson Bell, MD
Malcolm Cothran, MD
Claudette Dalton, MD
William Epstein, MD
Stephen Heretick, JD
Gopinath Jadhav, MD
Jennifer Lee, MD
Stuart Mackler, MD
Roderick Mathews, JD
Juan Montero, MD
Wayne Reynolds, DO
Ellen Shapiro, DPM
Michael Signer, Ph.D., JD

MEMBERS ABSENT: None

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Executive Director, Discipline
Barbara Matusiak, MD, Medical Review Coordinator
Ola Powers, Deputy Executive Director, Licensing
Colanthia Morton Opher, Operations Manager
Amy Marschean, Assistant Attorney General
Elaine Yeatts, DHP Senior Policy Analyst

OTHERS PRESENT: Diane Powers, DHP Communications Director
Karah Gunther, HDJN
Michael Jurgensen, MSV

ROLL CALL

EMERGENCY EGRESS PROCEDURES

Dr. Ransone read the emergency egress procedures for Conference Room 2.

APPROVAL OF THE OCTOBER 29, 2009 MINUTES

Dr. Ransone moved to accept the minutes of October 29, 2009 as presented. The motion was seconded and carried unanimously.

ADOPTION OF AGENDA

Dr. Ransone moved to adopt the agenda with the additional Physician Assistant item proposed by Dr. Harp. The motion was seconded and carried unanimously.

INTRODUCTION OF GUESTS

Dr. Harp introduced and welcomed the members of the public.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment.

NEW BUSINESS

DHP DIRECTOR'S REPORT

Dr. Harp informed the Board that Ms. Ryals was unable to attend the meeting, and in her absence gave an overview of the FY2010 2nd quarter key performance measures regarding case resolution and customer service.

Thanks to everyone's efforts, Medicine's clearance rate was 91%, the pending caseload older than 250 business days was at 8%, and 94% of the cases were closed within 250 days.

Dr. Harp also commended Ms. Powers, Deputy Director, Licensing and her unit on consistently achieving a 96% customer satisfaction rate and 100% on issuing licenses within 30 days of a completed application.

Dr. Harp mentioned the information brochure/folder sent out by DHP's Prescription Monitoring Program, indicating that one was mailed to all licensed prescribers in mid-January.

REPORT OF OFFICERS AND EXECUTIVE DIRECTOR

OFFICER'S REPORT

Dr. Piness, President, had no official report, but asked the Board to briefly discuss current regulations regarding medical records, the retention schedule, and to consider whether the current regulations would be applicable to and sufficient for transition to and maintenance of electronic medical records.

Dr. Ransone - Vice-President - No report.

Dr. Hoffman - Secretary/Treasurer – No report.

EXECUTIVE DIRECTOR'S REPORT

Revenue and Expenditures Report

Dr. Harp advised that the most recent report indicated that the Board is well within budget with cash of \$1.9 million.

Dr. Harp advised that the transfer of \$666, 630 referred to by Ms. Ryals in October 2009 is still slated to occur, unless there is an amendment to the Commonwealth's budget in this session of the General Assembly. Ms. Yeatts added that the good news is that the lack of an amendment indicates that no increase in the amount of transfer has been proposed.

HPMP Statistics

This report was provided for information only. No action required.

Ad Hoc on Office-Based Surgery

Dr. Harp provided the Board with an update on the formation of this committee. He confirmed that Dr. Mackler has agreed to chair the committee, and that board staff has been in communication with those individuals identified as possible members. A meeting will be scheduled in the near future.

Midwifery Workgroup

Dr. Harp remarked that the workgroup met in December 2009 to begin developing regulations pursuant to HB2163 regarding disclosure about high-risk pregnancy and medical consultation, but it has not met since. The February Advisory Board on Midwifery was to have continued the work from the midwifery standpoint, but that meeting was cancelled due to snowy conditions. Further work on the regulations may be delayed until the June Advisory Board on Midwifery meeting.

MDR Inspections

Dr. Harp informed the Board that the programmatic inspections of doctors' practices for compliance with the mixing, diluting and reconstituting regulations have not yet begun.

Board of Health Professions (BHP) Studies

Dr. Harp provided an overview of the current studies by the Board of Health Professions that will have an impact on the Board of Medicine. He informed the members that HB725 – establishment of polysomnography as a profession - was moving along favorably. He stated that this profession would be assigned to the Board of Medicine and would have an advisory board, bringing the board member total to 58. Dr. Harp also reviewed the draft work plan to study the feasibility of an allied health board in DHP. Some of Medicine's professions could be considered as possible stakeholders in a new allied health board.

MSV Newsletter

Dr. Harp advised the Board that the newly hired communications person at the Medical Society of Virginia would like to provide the MSV membership with information about the Board and the Board members. Dr. Harp indicated that MSV might contact some Board members directly for bits of information about the experience of serving on the Board of Medicine.

FSMB Annual Meeting

Dr. Harp advised that Dr. Piness and Ms. Deschenes would be representing Virginia at the Federation of State Medical Boards Annual meeting in Chicago, April 21-24, 2010.

PMP Conference

Dr. Harp invited the members to attend the "Patient Management with Controlled Substances" seminar presented in conjunction with the Prescription Monitoring Program May 1, 2010 in Charlottesville, VA. The seminar will offer 4 hours of CAT I continuing education credit.

Visit to District of Columbia

Dr. Piness, Dr. Lee and Dr. Harp have been invited by Jacqueline Watson, Executive Director, to visit the District of Columbia Board of Medicine meeting on February 24, 2010.

Noteworthy

Dr. Harp shared that Gen. Adams-Ender was featured in Aetna's 2010 African American in *Public Service* History Calendar. Also, General Adams-Ender was recently informed that she has been appointed by the White House to the Council on Foreign Relations as an expert in health. The Board congratulated Gen. Adams-Ender on her accomplishments with much applause.

COMMITTEE AND ADVISORY BOARD REPORTS

Dr. Ransone moved to accept the minutes en bloc with the exception of the Advisory Board on Physician Assistants. The motion was seconded and carried.

Dr. Harp referred to the minutes of the Advisory Board on Physician Assistants meeting held February 4, 2010 and addressed the Advisory's recommendation to amend section 18VAC85-50-56B. Dr. Harp stated that the concern of the Advisory was the undue burden placed on a PA in specialty practice to maintain current national certification that is general in nature. Presently, physician assisting is the only profession at the Board that has the requirement to show current certification in order to renew a license.

After some discussion, Dr. Bell moved to table this issue. The motion was seconded and carried. Ms. Yeatts asked the Board to provide staff with guidance so additional information can be properly prepared and presented at the next meeting. The Board asked that an analysis of what other states are doing, along with pass/fail statistics for PA's on the recertification exam be presented to inform further discussion. Board staff will compile the requested information and distribute it accordingly.

OTHER REPORTS

Assistant Attorney General

Ms. Marschean gave an update on the following legal matters:

Vuyyuru - awaiting a decision from the Supreme Court from his last appeal.

Tinoosh – appeal argument was held on February 2 in the Lynchburg Circuit; waiting on judge's letter of opinion.

Binder – multiple motions and orders filed against the Board and individuals in Yorktown. Mr. Casway and Ms. Marschean will appear on a plea in bar at the end of February.

Horng – notice of appeal filed but the petition of appeal has not been filed with the Courts.

Abofreka – filed a petition of appeal in Fairfax County.

Board of Health Professions

No report.

Podiatry Report

No report.

Chiropractic Report

No report.

NEW BUSINESS

Chart of Regulatory Actions

This report was provided for information only. No action was required.

Legislation Update

Ms. Yeatts distributed an updated report of the 2010 Session of the General Assembly and highlighted those bills that directly affect the Board of Medicine.

Three Paid Claims

Dr. Harp asked the Board to consider referring §54.1-2912.3 of the Code to the Legislative Committee for review and amendment. He stated that many of the individuals that have been required to undergo an assessment have not been a logical fit. He identified the groups as those that have expired but are still within the two year renewal window, those who have retired with no intention of practicing again, those that live out-of-state and do not plan to return to Virginia, those whose claims occurred in another state, inactive licensees, and those who hold volunteer licenses and work in a free clinic.

After brief discussion, Dr. Reynolds moved that the Code be referred to the Legislative Committee for review. The Board unanimously agreed.

Licensing Report

Ms. Powers began by providing the license count for the professions regulated by the Board. She then advised the Board that a central receipting unit had been created by the Department, and that one full-time position from the Board of Medicine had been moved to that unit. Effective February 1, 2010, the new unit began receiving and entering fees submitted for licensure and verifications for several boards in the agency. At some point in the future, they will handle all incoming fees.

Ms. Powers also announced that the ability to apply for an initial license online and pay with a credit card will become available shortly. She stated that this move should prove beneficial to the new receipting unit, the Board, and applicant.

Discipline Report

Ms. Deschenes briefly referred to the discipline stats discussed at the beginning of the meeting. She also asked the members for suggestions on what they would like her report to address in future meetings.

Nominating Committee

Dr. Reynolds, Dr. Montero, and Dr. Mackler volunteered to serve on the 2010 Nominating Committee. The Committee will present a slate of officers for consideration at the June 10, 2010 meeting.

Retention of Medical Records

There was a brief discussion by the Board regarding its medical records retention schedule and whether there was a need to make any revisions to the regulations with the advent of electronic medical records. The consensus was that there was no need to make any changes but rather review and ensure that the current regulations cover retention of paper, electronic versions, and a combination of the two.

Credentials Committee Recommendation

The Board was provided with the Credentials Committee's recommendation in the matter of Caryn Malkman, MD's application for a license to practice medicine and surgery in the Commonwealth. Michael Goodman, JD was allowed to address the Board and asked that Dr. Malkman be allowed to withdraw her application.

After Mr. Goodman's presentation, the Dr. Ransone moved to convene a closed meeting pursuant to §2.2-3711 A. (28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Dr. Malkman. Additionally, she moved that Dr. Harp, and Jennifer Deschenes attend the closed meeting because their presence would aid the Committee in its deliberations. The motion was seconded and carried. Upon motion made, seconded and carried, the Committee returned to open session following the procedure for certification of an executive meeting pursuant to §2.2-3712.

Mr. Heretick moved to grant Dr. Malkman's request to withdraw her application for a license to practice medicine and surgery. The motion was seconded and carried.

Adjournment: With no other business to conduct, the meeting adjourned at 12:05 p.m.

Next scheduled meeting: June 10-12, 2010

Jane Piness, M.D.
President, Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Recording Secretary

DRAFT

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Friday, February 19, 2010

Department of Health Professions

Richmond, VA

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Gen. Clara Adams-Ender, RN, MSN, USA Ret.
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Ellen Shapiro, DPM
Michael Signer, Ph.D., JD

STAFF PRESENT: William L. Harp, MD, Executive Director
Barbara Matusiak, MD, Medical Review Coordinator
Colanthia Morton Opher, Operations Manager
Renee Dixon, Discipline Case Manager
Marilyn Dundon, Discipline Administrative Assistant

OTHERS PRESENT: Diane Powers, DHP Communications Director
Virginia Scher, DHP, AAS

Dr. Piness called the meeting to order at 9:05 a.m.

Roll was called and a quorum was declared.

Dr. Mackler gave a very informative and engaging presentation on his experience with Operation Smile and their recent trip to Haiti.

After Dr. Mackler's presentation, the members participated in the Conflicts of Interest Training

provided through the Knowledge Center.

Staff announced that review of probable cause cases would begin at the adjournment of the public meeting.

With no other business to conduct, the meeting adjourned at 11:15 a.m.

Jane Piness, M.D.
President, Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Recording Secretary

DRAFT